

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:08CR3067
)	
V.)	
)	
GARY ZIERKE JR.,)	MEMORANDUM
)	AND ORDER
Defendant.)	
_____)	

Continuing a long string of abusive and frivolous motions and pleadings, Mr. Zierke has filed a Motion for Relief from Order or Judgment under Rule 60 (b) (filing no. 238) and a Motion for Leave to Proceed in Forma Pauperis (filing no. 239). Also included in Mr. Zierke's recent filing is his affidavit. (Filing no. 240). Liberally construed, that affidavit seeks my recusal. Zierke's affidavit is not timely and it is insufficient under 28 U.S.C. § 144. Furthermore, there is no basis for disqualification under 28 U.S.C. § 455 or otherwise. Therefore,

IT IS ORDERED that:

1. The Motion for Relief from Order or Judgment under Rule 60 (b) (filing no. 238) and the Motion for Leave to Proceed in Forma Pauperis (filing no. 239) are denied.
2. The Affidavit (filing no. 240), treated as a motion, is denied.

DATED this 8th day of January, 2013.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge